

## DRAFT PENDING FINALIZATION OF ACTION PLAN

EPA's Action Plan fulfills a commitment in the December 2009 Interim Federal Action Plan to "assess the effectiveness of the current regulatory mechanisms designed to protect water quality in the Delta and its tributaries, including standards for toxics, nutrients, and estuarine habitat protection." EPA's assessment concluded that Clean Water Act programs currently are not adequately protecting the aquatic resources of the Bay Delta Estuary. In the Action Plan, EPA describes activities to restore water quality for aquatic species protection using existing EPA authorities and resources, as well as actions EPA believes are important and appropriate for the State Water Board. This suite of activities includes:

1. Strengthening water quality standards to protect estuarine habitat
2. Advancing regional water quality monitoring and assessment
3. Accelerating water quality restoration through Total Maximum Daily Loads
4. Strengthening selenium water quality criteria
5. Preventing pesticide pollution
6. Restoring aquatic habitats while managing methylmercury
7. Supporting the Bay Delta Conservation Plan

B DRAFT Rulemaking in February 2011, which summarized: the status of aquatic species of concern in the Bay Delta Estuary; the current scientific and technical understanding of seven major stressors affecting those aquatic resources; and the state of the regulatory response to the dramatic decline in those resources. The seven stressors EPA considered most significant included: ammonia, selenium, pesticides, contaminants of emerging concern, declining estuarine habitat, fragmented migratory corridors and wetlands loss. The purpose of the ANPR was to solicit comment from the public and other agencies on what EPA might do differently to implement the programs under its purview – most notably the CWA – to address these named stressors for which EPA has existing authority.

Based on the ANPR and the comments received, as well as on more recent scientific and technical information, EPA has developed an action plan which (1) summarizes certain conclusions about the current regulatory mechanisms protecting water quality in the Bay Delta Estuary; and (2) outlines EPA's priorities and commitments to improve water quality for aquatic species in the Bay Delta Estuary. The Action Plan does not answer all of the questions raised in the ANPR, nor does it attempt to provide a comprehensive blueprint for solving all of the problems in the Bay Delta Estuary. Instead, it defines EPA's priorities in the Bay Delta Estuary and recommends changes in EPA (or Water Board) activities or policies, given our current authorities and our understanding of the threats to aquatic resources.

#### Relationship of EPA Action Plan to BDCP:

EPA's responsibilities under the CWA to protect designated uses (such as estuarine habitat, fish migration, and threatened and endangered species), overlaps with ESA requirements being addressed in the BDCP. The Action Plan considers ESA and non-ESA species and "other stressors" impacting aquatic ecosystem health.

EPA's Action Plan explicitly supports the BDCP as one of the means of meeting the co-equal goals established by the California legislature. EPA is a Cooperating Agency for the BDCP EIS to provide early input to the lead agencies. In particular, EPA will be considering how proposed changes in Delta conveyance might affect attainment of water quality standards in the Delta. Also, EPA and the Corps are working with the lead agencies to integrate Clean Water Act (CWA) requirements into the NEPA and ESA process so that CWA permitting of BDCP projects can proceed efficiently.

DRAFT